

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 555 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MUMAN SHARIF NURAJI DECD THRO HEIRS

Versus

STATE OF GUJARAT

Appearance:

MR AMIT C NANAVATI for Petitioners
Mr S S Patel, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 24/02/2000

ORAL JUDGMENT (per. Kadri, J.)

Seven petitioners are the owners of agricultural lands situated in the sim of village Vadnagar, District Mehsana. The lands of the petitioners came to be acquired for public purpose of Dharoi Canal by issuance of notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') which was published in the Official Gazette on 3.4.1986. After following the usual procedure, the Land Acquisition Officer made his award on March 31, 1987 offering compensation of the acquired lands at Rs.2/- per sq. metre. The other owners of the agricultural lands filed applications under Section 18 of the Act for determination of compensation, requiring the Land Acquisition Officer to refer the applications to the District Court, Mehsana. The petitioners did not file applications under Section 18 of the Act. The applications which were filed by the other land owners were referred to the District Court which came to be numbered as Land Acquisition Reference Cases No.476 to 491 of 1989. The Reference Court, by judgment and award dated December 18, 1998 awarded additional compensation at Rs.8/- per sq. metre with other statutory benefits. The petitioners who had not filed applications under Section 18 of the Act, made application under Section 28-A of the Act before the Land Acquisition Officer for determination of compensation which was awarded by the Reference Court. The said applications were filed within the period of limitation prescribed under Section 28-A of the Act i.e. on March 10, 1999.

2. The petitioners made oral representation to the Land Acquisition Officer to decide their applications filed under Section 28-A of the Act. But the said representations were not considered and till the filing of the petition, the Land Acquisition Officer had not decided the applications of the petitioners filed under Section 28-A of the Act. The petitioners had preferred filing of this petition under Articles 226, 14 and 19 of the Constitution of India for issuance of writ or direction directing the third respondent to decide their applications filed under Section 28-A of the Act.

3. Respondent No.3 has filed his affidavit-in-reply, inter-alia, contending that as per Government Circular No.LAQ 2296/V dated March 10, 1997, the award on the applications filed under Section 28-A of the Act requires to be declared before March 2000, but because of pending litigations in various Courts and due to paucity of staff in his office and the fact that the post of Dy.Mamalatdar, Dharoi is vacant, the applications could

not be decided within the stipulated period. It is stated that the applications filed by the petitioners shall be decided on or before 31st August, 2000. It is further submitted by the third respondent that the judgment and award passed by the Reference Court in LAR Cases No.476 to 491 of 1989 is acquiesced by the State Government which has been accordingly intimated to his office during October, 1999.

4. In view of the submissions made by the third respondent, in our view, this petition deserves to be allowed. The third respondent is directed to decide the applications filed by the petitioners under Section 28-A of the Act and make payment of additional compensation as per the award of the Reference Court in LAR Cases No.476 to 491 of 1989, on or before 31.8.2000.

5. Third respondent, Mr D B Shah, Deputy Collector, Land Acquisition and Rehabilitation, Dharoi, Vatrak and other Project, Himatnagar is personally present in the Court and he is apprised of the order passed by this Court. We, therefore, direct him to take immediate action of deciding the applications of the petitioners filed under Section 28-A of the Act and make the payment of additional compensation on or before 31.8.2000.

6. For the foregoing discussions, this Special Civil Application is allowed. Rule is made absolute accordingly. No order as to costs.

....
msp.